

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4607 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHHIDRA GRAM PANCHAYAT

Versus

DISTRICT EDUCATION OFFICER

Appearance:

MR RR SHAH for Petitioner

MR HL JANI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/03/97

ORAL JUDGMENT

Under the instructions of District Education Officer, Bharuch, the learned counsel for the respondent states that there was excess staff in the petitioner school because of mistake on the part of the Department. In view of this statement made by the counsel for respondent, the Special Civil Application deserves to be accepted.

2. The facts, in brief, of the case are that the petitioner, Gram Panchayat, filed this Special Civil Application and challenge has been made to the orders of the respondent under which the amount of grant payable to the petitioner was deducted from the total grant payable to the petitioner for the year 1982-83. Further prayer has been made, by making amendment, for direction of refund of the amount of grant deducted for the year 1983-84. Prayer has also been made for refund of the amount of grant deducted for the year 1982-83.

3. It is not in dispute that Shri V.K. Patel, a surplus teacher was ordered to be appointed in the school of petitioner by District Education Officer. Against this appointment, the petitioner made a grievance that the school being a post basic school, no surplus teacher could have been appointed and secondly, Shri V.K. Patel is not fit to be appointed as a teacher as he has not qualified to teach the subjects. However, salary has been paid to Shri V.K. Patel by the petitioner. Thereafter appointment on the post of Principal has also been made with prior sanction and approval of District Education Officer after making selection in which a representative of the District Education Officer was also present. So, the excess staff was there for the reason that one surplus teacher was sent by the District Education Officer concerned. The officer would have known very well that by sending a teacher and further by making appointment on the post of Principal, excess staff may be there, but if any fault lies, then it lies with the Department and not with the petitioner. In view of this fact and admission made by the counsel for the respondent, the orders impugned in this Special Civil Application cannot be permitted to stand. The action of the respondent to deduct the amount of grant from the total grant payable to the petitioner for the years 1982-83 and 1983-84 is wholly arbitrary and unjustified.

4. In the result, this Special Civil Application succeeds and the concerned respondents are directed to refund the amount deducted from the total grant payable to the petitioner for the years 1982-83 and 1983-84 forthwith to the petitioner. Rule is made absolute in aforesaid terms with no order as to costs.

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